

Memorandum



Date: May 17, 2016
To: Honorable Chairwoman Jean Monestime
and Honorable Members, Board of County Commissioners
From: Commissioner Daniella Levine Cava *Daniella Levine Cava*
Subject: *Amendments to Ordinance Creating Section 12-14.2 of the Code of Miami-Dade County, Florida, to Provide for Reporting Requirements for Elected Officers and Candidates Regarding Solicitation of Contributions for Political Committees and Electioneering Communications Organizations*

At the February 2, 2016 Board of County Commissioners meeting, the Board considered and then deferred, to no date certain, agenda item 7B titled:

ORDINANCE CREATING SECTION 12-14.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO PROVIDE FOR REPORTING REQUIREMENTS FOR COUNTY AND MUNICIPAL ELECTED OFFICERS AND CANDIDATES REGARDING SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING PENALTIES FOR FAILURE TO REPORT; PROVIDING FOR ENFORCEMENT BY THE COMMISSION ON ETHICS AND PUBLIC TRUST; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

Prior to deferral, and at my request as the sponsor, the Board approved several amendments to the item to: (1) clarify that each candidate for office, rather than the campaign treasurer for that candidate, is ultimately responsible for insuring that the solicitation report is filed; (2) clarify that only successful solicitations need be reported; (3) change the time period for which County and municipal elected officials must file solicitation reports from one (1) year prior to election to the entire length of the term; (4) allow candidates or elected officials to claim all solicitations to a political committee or electioneering communications organization as being solicited directly or indirectly by the candidate or elected official in lieu of reporting individual solicitations; (5) clarify that any appeal of a fine shall be made within twenty (20) days of receipt of notice from the Supervisor of Elections; and (6) correct a scrivener's error. These amendments are all noted in the Clerk of the Board's minutes for the February 2, 2016 meeting of the Board of County Commissioners.

The Ordinance as amended is attached hereto as "Attachment A." The Clerk's Minutes for the February 2, 2016 meeting are attached hereto as "Attachment B."

ATTACHMENT A

ORDINANCE NO. _____

ORDINANCE CREATING SECTION 12-14.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO PROVIDE FOR REPORTING REQUIREMENTS FOR COUNTY AND MUNICIPAL ELECTED OFFICERS AND CANDIDATES REGARDING SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING PENALTIES FOR FAILURE TO REPORT; PROVIDING FOR ENFORCEMENT BY THE COMMISSION ON ETHICS AND PUBLIC TRUST; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, this Board believes that transparency and accountability in government is fundamental to the public's faith in the democratic process; and

WHEREAS, this Board desires that campaign fundraising activities by candidates and public officials be transparent and accessible by all residents of Miami-Dade County; and

WHEREAS, fundraising through political committees and electioneering communications organizations creates the potential for anonymous campaign fundraising that can function as barrier between citizens and those seeking to represent them in elective office; and

WHEREAS, state law and the rules of the Florida legislature currently require that some state officers and legislators disclose when they fundraise for a political committees or electioneering communication organizations; and

WHEREAS, this Board desires to establish similar requirements for County and municipal officials and candidates within Miami-Dade County; and

WHEREAS, requiring public officials and candidates to publicly disclosure their fundraising activities for political committees or electioneering communications organizations

would provide needed sunlight in the campaign fundraising process and allows voters to make informed decision about candidates,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 12-14.2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows in its entirety:

Sec. 12-14.2. County and Municipal Elected Officer and Candidate Reporting Requirements for Political Committee and Electioneering Communication Organization Solicitations.

- (1) Each >>candidate for County or municipal office in Miami-Dade County shall insure that their designated<<¹ campaign treasurer ~~[[designated by a candidate for County or municipal office in Miami Dade County]]~~ shall, at the time of filing any contribution or expenditure reports otherwise required by law, file an additional electronic report with the Supervisor of Elections or other applicable filing officer regarding solicitation activities on behalf of any political committee or electioneering communications organization. The report shall identify each contribution >>successfully<< solicited, directly or indirectly, by the candidate, the name of the person or entity contributing the funds, the name of the political committee or electioneering communications organization on behalf of whom such funds were solicited, the amount of the contribution, and a description of the relationship between the candidate and the political committee or electioneering communications organization, if any. The report shall be filed on a form created by the Supervisor of Elections for such purpose. >>A candidate may comply with the reporting requirements of this subsection by filing a one-time report indicating that all contributions to an identified political committee or electioneering communications organization were solicited either directly or indirectly by the candidate. Upon filing such report, no further reports shall be required under this subsection for solicitations on behalf of the identified political committee or electioneering communications organization during any reporting period.<<

¹ Words stricken through and/or [[double bracketed]] have been deleted by the Board. Words underscored and/or >>double arrowed<< are added by the Board.

(2) >>Upon commencement of any solicitation activities undertaken on behalf of any political committee or electioneering communications organization, e<<[[E]]ach County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal office shall, on a monthly basis~~[[commencing one year prior to the date such officer's office is to be filled by election]]~~>> for the remainder of the officer's term of office<<, file an electronic report with the Supervisor of Elections or other applicable filing officer regarding >>such<< solicitation activities ~~[[undertaken on behalf of any political committee or electioneering communications organization]]~~ during the preceding month. The report shall identify each contribution >>successfully<< solicited, directly or indirectly, by the officer, the name of the person or entity contributing the funds, the name of the political committee or electioneering communications organization on behalf of whom such funds were solicited, the amount of the contribution, and a description of the relationship between the officer and the political committee or electioneering communications organization, if any. The report shall be filed on a form created by the Supervisor of Elections for such purpose. >>A County or municipal elected official may comply with the reporting requirements of this subsection by filing a one-time report indicating that all contributions to an identified political committee or electioneering communications organization were solicited either directly or indirectly by the County or municipal elected official. Upon filing such report, no further reports shall be required under this subsection for solicitations on behalf of the identified political committee or electioneering communications organization during the remainder of the County or municipal elected official's term.<<

(3) Any County or municipal elected officer or candidate who fails to file a report as required by this section on the designated due date shall be subject to a fine of \$50 per day for the first three (3) days and, thereafter, \$500 per day for each day late not to exceed \$5,000. Such fine shall not be an allowable campaign expense and shall be paid only from the personal funds of the candidate or officer. Any candidate or officer ~~[[no change]]~~ >>may appeal<< or dispute the fine to the Miami-Dade County Commission on Ethics and Public Trust based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request, and shall be entitled

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to, a hearing before the Commission on Ethics and Public Trust, which shall have the authority to waive the fine in whole or in part. Any such appeal or dispute shall be made within twenty (20) days after receipt of notice >>from the Supervisor of Elections<< that payment is due or such appeal or dispute shall be waived.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Oren Rosenthal

Prime Sponsor:
Daniella Levine Cava

ATTACHMENT B



MASTER REPORT

File Number: 152691

Stephen P. Clark
Government Center
111 N.W. 1st Street
Miami, FL 33128

File Number: 152691	File Type: Ordinance	Status: Deferred by the Board
Version: 0	Ordinance:	Control: Board of County Commissioners
File Name: SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES		Introduced: 11/17/2015
Requester:	Cost:	Final Action:
Ag. Date: 2/2/2016		Ag. Item: 7B
Notes:	Title: ORDINANCE CREATING SECTION 12-14.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO PROVIDE FOR REPORTING REQUIREMENTS FOR COUNTY AND MUNICIPAL ELECTED OFFICERS AND CANDIDATES REGARDING SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING PENALTIES FOR FAILURE TO REPORT; PROVIDING FOR ENFORCEMENT BY THE COMMISSION ON ETHICS AND PUBLIC TRUST; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE	
Indexes: ELECTED OFFICIALS SOLICITATIONS		Sponsors: Daniella Levine Cava , Prime Sponsor

Sunset Provision: No	Effective Date:	CAO: cp
	Expiration Date:	

History of Legislative File		152691					
Ver	Acting Body	Date	Action	Sent To	Due Date	Returned	Pass/Fail
	County Attorney	11/17/2015	Assigned	Oren Rosenthal	11/18/2015		
	County Attorney	11/17/2015	Referred	Strategic Planning & Government Operations Cmte	1/12/2016		
	Board of County Commissioners	12/1/2015	Adopted on first reading		1/12/2016		P
		Note: The foregoing proposed ordinance was adopted on first reading and scheduled for public hearing before the Strategic Planning and Government Operations (SPGO) Committee on Tuesday, January 12, 2016 at 9.30 a.m.					
	Board of County Commissioners	12/1/2015	Tentatively scheduled for a public hearing	Strategic Planning & Government Operations Cmte	1/12/2016		

Strategic Planning &
Government Operations
Cmte

1/12/2016 Forwarded to BCC
with a favorable
recommendation

P

Note: Assistant County Attorney Juliette Antoine read the foregoing proposed ordinance into the record.

Vice Chair Sosa inquired if the candidate did not have any political committees or any electioneering communications organizations, will there be a place on the form created by the elections department for candidates to disclose that information as well. She explained that it was important to know both, if the candidates did or did not have any political committees or electioneering communications organizations.

Commissioner Levine Cava responded that she was certain that was within the implementation of this ordinance, and asked a representative from the Elections department to respond to Vice Chair Sosa's inquiry.

Ms. Christina White, Supervisor of Elections Designee, Elections Department explained that the typical campaign finance reporting, if there was no activity a waiver of report would be filed, but this form can indicate that if the Committee preferred that method. If a person did not engage in such activity then they would not be required to file the form.

Vice Chair Sosa noted that she did not want to punish the people that didn't have any committees or any electioneering communications organization.

Commissioner Levine Cava noted that this legislation was a step forward towards informing the public and creating greater transparency. She expressed appreciation to Committee members for their support.

Hearing no questions or comments, the Committee proceeded to vote on the foregoing proposed ordinance, as presented.

Note: The Board voted to defer the foregoing ordinance to no-date-certain and to adopt the following amendments into the ordinance:

On handwritten page 6, Section 12-14,
Subsection (1)

- to change the beginning of the first sentence to read: "...Each candidate for County or municipal office in Miami-Dade County shall ensure that their designated campaign treasurer shall at the time of filing any contribution or expenditure reports otherwise required by law...;"
- at the end of the eighth line, to insert the word "successfully" between the words "contribution" and "solicited;" and
- at the end of the subsection, to add the following language: "...A candidate may comply with the reporting requirements of this subsection by filing a one-time report indicating that all contributions to an identified political committee or electioneering communications organization were solicited either directly or indirectly by the candidate. Upon filing such report, no further reports shall be required under this subsection for solicitations on behalf of the identified political committee or electioneering communications organization during any reporting period..."

Subsection (2)

- to replace the first sentence with the following language: "...Upon commencement of any solicitation activities undertaken on behalf of any political committee or electioneering communications organization, each County or municipal elected officer in Miami-Dade County, who is not also a candidate for another County or municipal office shall, on a monthly basis for the remainder of the officer's term of office, file an electronic report with the Supervisor of Elections or other applicable filing officer, regarding such solicitation activity during the preceding month...;"
- in the second sentence, to insert the word "successfully" between the words "contribution" and "solicited;" and
- at the end of the subsection, to add the following language: "...A county or municipal elected official may comply with the reporting requirements of this subsection by filing a one-time report indicating that all contributions to an identified political committee or electioneering communications organization were solicited either directly or indirectly by the County or municipal elected official. Upon filing such report, no further reports shall be required under this subsection for solicitations on behalf of the identified political committee or electioneering communications organization during the remainder of the County or municipal elected official's term..."

Subsection (3), handwritten page 7, line 8 – to delete the words "no change" and replace it with "may appeal;" in line 16 after the word "notice", to add the phrase "from the Supervisor of Elections."

Assistant County Attorney Oren Rosenthal advised that the foregoing amendments would clarify several issues in the item and allow candidates and current officials to file a one-time statement that read: "...all solicitations for a particular pack or committee was solicited by the candidate..." which would prevent the filing of a monthly statement. He noted the amendments would also make the requirement on the County or municipal elected officer apply for the entire term, but to apply only upon commencement of the activity.

Body:

WHEREAS, this Board believes that transparency and accountability in government is fundamental to the public's faith in the democratic process; and
WHEREAS, this Board desires that campaign fundraising activities by candidates and public officials be transparent and accessible by all residents of Miami-Dade County; and
WHEREAS, fundraising through political committees and electioneering communications organizations creates the potential for anonymous campaign fundraising that can function as a barrier between citizens and those seeking to represent them in elective office; and
WHEREAS, state law and the rules of the Florida legislature currently require that some state officers and legislators disclose when they fundraise for political committees or electioneering communication organizations; and
WHEREAS, this Board desires to establish similar requirements for County and municipal

officials and candidates within Miami-Dade County; and

WHEREAS, requiring public officials and candidates to publicly disclose their fundraising activities for political committees or electioneering communications organizations would provide needed sunlight on the campaign fundraising process and allow voters to make informed decision about candidates,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI DADE COUNTY, FLORIDA:

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Sec. 12-14.2. County and Municipal Elected Officer and Candidate Reporting Requirements for Political Committee and Electioneering Communication Organization Solicitations.

(1) Each campaign treasurer designated by a candidate for County or municipal office in Miami-Dade County shall, at the time of filing any contribution or expenditure reports otherwise required by law, file an additional electronic report with the Supervisor of Elections or other applicable filing officer regarding solicitation activities on behalf of any political committee or electioneering communications organization. The report shall identify each contribution solicited, directly or indirectly, by the candidate, the name of the person or entity contributing the funds, the name of the political committee or electioneering communications organization on behalf of whom such funds were solicited, the amount of the contribution, and a description of the relationship between the candidate and the political committee or electioneering communications organization, if any. The report shall be filed on a form created by the Supervisor of Elections for such purpose.

(2) Each County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal office shall, on a monthly basis commencing one year prior to the date such officer's office is to be filled by election, file an electronic report with the Supervisor of Elections or other applicable filing officer regarding solicitation activities undertaken on behalf of any political committee or electioneering communications organization during the preceding month. The report shall identify each contribution solicited, directly or indirectly, by the officer, the name of the person or entity contributing the funds, the name of the political committee or electioneering communications organization on behalf of whom such funds were solicited, the amount of the contribution, and a description of the relationship between the officer and the political committee or electioneering communications organization, if any. The report shall be filed on a form created by the Supervisor of Elections for such purpose.

(3) Any County or municipal elected officer or candidate who fails to file a report as required by this section on the designated due date shall be subject to a fine of \$50 per day for the first three (3) days and, thereafter, \$500 per day for each day late not to exceed \$5,000. Such fine shall not be an allowable campaign expense and shall be paid only from the personal funds of the candidate or officer. Any candidate or officer no change dispute the fine to the Miami-Dade County Commission on Ethics and Public Trust based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request, and shall be entitled to, a hearing before the Commission on Ethics and Public Trust, which shall have the authority to waive the fine in whole or in part. Any such appeal or dispute shall be made within twenty (20) days after receipt of notice that payment is due or such appeal or dispute shall be waived.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

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